

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D C 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
Revision of the Commission's Rules to Ensure)
Compatibility with Enhanced 911 Emergency)
Calling Systems)
)
South Canaan Cellular Communications Company, L.P)
Petition for Waiver of Section 20.18)
of the Commission's Rules)

CC Docket No 94-102

To: Chief, Wireless Telecommunications Bureau

PETITION FOR WAIVER

South Canaan Cellular Communications Company, L.P ("South Canaan"), pursuant to Sections 1.3 and 1.925 of the Commission's Rules,¹ hereby requests temporary waiver of the Phase II enhanced 911 ("E911") obligations set forth in Section 20.18 of the Commission's Rules.² Waiver is warranted due to the fact that the application of the Rule to South Canaan would be unduly burdensome and contrary to the public interest. To further the public interest, South Canaan proposes an alternative and specific deployment schedule and commits to submitting quarterly reports to inform the Commission of its progress toward compliance.

¹ 47 C.F.R. §§ 1.3 and 1.925

² 47 C.F.R. § 20.18

I. Background

South Canaan is a “Tier III” carrier as defined by the Commission’s E911 Rules³. The company provides analog cellular service to subscribers in the Pennsylvania 5 – Wayne (CMA616) rural service area⁴. On November 7, 2000, South Canaan filed a report with the Commission stating its intention to implement a hybrid network/handset Phase II E911 solution. Subsequently, on August 31, 2001, South Canaan filed a Petition for Waiver to seek additional time to implement this solution. South Canaan reported that it had been unable to obtain commitments from its handset supplier that would allow it to deploy Phase II-compliant handsets in accordance with the timeline specified in the Commission’s Rules⁵.

Because handset-based solutions are not available for analog systems, South Canaan has made a diligent investigation into deploying a network-based solution. South Canaan found, however, that this approach is not economically or technically feasible in its service area. Accordingly, to satisfy the E911 mandate and other competitive and market demands, South Canaan has determined that it must migrate to a CDMA technology that supports a handset-based solution⁶. South Canaan has initiated the process of installing the CDMA technology and

³ See *In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Order to Stay, CC Docket No. 94-102 at para. 23 (rel. July 26, 2002) (“Stay Order”) (defining Tier III carriers as all wireless carriers with less than 500,000 subscribers).

⁴ Only two counties, Pike and Wayne, are located in South Canaan’s service area.

⁵ See South Canaan Cellular Communications L.P. Petition for Waiver of Section 20.18(g) of the Rules dated August 31, 2001 (“2001 Waiver”) at 1. The Commission subsequently extended the deadline for Tier III carriers to implement a Phase II solution. See Stay Order at para. 1.

⁶ The interim report, which is being submitted concurrently with this waiver request, amends South Canaan’s November 2000 Report to include its CDMA network in its selection of

anticipates that a majority of its customers will have transitioned to this technology by December 31, 2007. Accordingly, the company hereby seeks extension of the Commission's timetable for deployment of a hybrid network/handset Phase II E911 pursuant to the revised schedule set forth herein.⁷

II. Waiver is Warranted

The standard for grant of a waiver of the Commission's Rules is that "in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."⁸ Waiver is appropriate "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."⁹ South Canaan's waiver request meets these standards.

a hybrid network/handset-based solution. South Canaan anticipates that its transition to CDMA will nonetheless result in continued utilization of the analog portion of its network for some time. As explained below, South Canaan commits to educating analog subscribers regarding the benefits of E911 Phase II service, available only in the event these subscribers transition to CDMA phones.

⁷ South Canaan received a Phase II request from the Pike County PSAP before March 1, 2003. Accordingly, the company is required to implement the network component of the hybrid solution by September 1, 2003. *See* Stay Order at para. 33. As explained herein, the company seeks extension of this deadline and proposes to implement the network component once it begins to sell CDMA ALI-capable handsets.

⁸ 47 C.F.R. § 1.925(b)(3)(ii).

⁹ *Northeast Cellular Telephone v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969)).

A. Application of the Rule to South Canaan Would be Unduly Burdensome and Contrary to the Public Interest

The Commission's Rules require cellular licensees to provide E911 access to their customers using either a handset-based or network-based solution. Tier III carriers who implement a handset-based solution must meet the following implementation schedule: September 1, 2003 - begin selling and activating ALI-capable handsets, November 30, 2003 - ensure that at least 25 percent of all new handsets activated are ALI-capable, May 31, 2004 - ensure that at least 50 percent of all new handsets are ALI-capable, November 30, 2004 - ensure that 100 percent of all new digital handsets activated are ALI-capable, December 31, 2005 - ensure that 95 percent of their subscribers have ALI-capable handsets.¹⁰ Carriers that have received a PSAP request must, within six months or by September 1, 2003, whichever is later, "install any hardware and/or software in the CMRS network and/or other fixed infrastructure, as needed, to enable the provision of Phase II E911 service," and begin delivering the Phase II service to the PSAP.¹¹ Because South Canaan, in the midst of a technical upgrade, will not be able to fully implement its CDMA technology until the later half of 2004, it would be unduly burdensome and contrary to the public interest to require South Canaan to meet this implementation schedule. Accordingly, waiver of these benchmarks and network implementation deadline should be granted.

The rural nature of the area served by South Canaan's system is demonstrated by the fact that no municipalities within its service area exceed a population of 10,000 with most

¹⁰ Stay Order at para. 33

¹¹ *Id.*

communities having less than 5,000 in population¹² For some of these rural communities, South Canaan is the only carrier that provides mobile telephone service Many of these rural communities have no mobile telephone service at all Following South Canaan's notification to the FCC of its decision to implement a handset-based Phase II solution, the company worked diligently to identify vendors that could enable the company to implement Phase II economically and in accordance with the Commission's timetable South Canaan has been unable, however, to find any vendor that provides a handset-based solution for analog systems or that can provide a network-based solution in an economically feasible way¹³

Further, South Canaan has discovered that a network-based solution cannot be implemented in a manner which guarantees compliance with the Commission's accuracy requirements¹⁴ Even if South Canaan were able to locate additional tower sites to assist in meeting the accuracy requirements, construction of the additional towers would add significantly to the already exorbitant cost of deploying a network-based solution, leading to reduction in future expansion of its coverage area, and perhaps even demanding a reduction of its existing

¹² See www.ruralpa.org/county_profiles.html indicating that of the thirteen municipalities in Pike County, 77 percent have a population less than 5000 and of the twenty-eight municipalities in Wayne County, 82 percent have a population less than 2500

¹³ The only two network-based vendors that have been identified are Grayson Wireless and TruePosition, which have solutions that are extraordinarily burdensome for a small and rural carrier See, The Rural Cellular Association Carrier Reports on Implementation of Wireless E911 Phase II Automatic Location Identification CC Docket No. 94-102, filed November 9, 2000 (citing record evidence that the cost of deployment of Grayson Wireless' solution is estimated to be approximately \$25,000 per cell site plus a \$65,000 central control system and the cost of TruePosition's solution is estimated to be approximately \$36,000 per cell site)

¹⁴ See Rural Cellular Corporation E911 Implementation Report, CC Docket No. 94-102, filed May 1, 2003 ("RCC Quarterly Report") at 1-2 (describing "numerous challenges" to deploying Angle of Arrival antennas in rural markets)

coverage area. Any reduction in coverage would cause some subscribers in the affected area to lose basic wireless service, and thus lose all ability to contact emergency service providers except through landline phones, since South Canaan provides service in some areas not served by any other wireless carrier.

Given that implementation of a network-based solution is neither economically or technically feasible, the company determined that it had no alternative but to convert its system to a CDMA network in order to accommodate a handset-based solution. The company has selected Lucent as its vendor and is in the process of issuing purchase orders for the CDMA equipment. Because the process involves multiple, sequential upgrades at its switch and at each cell site, South Canaan estimates that it will not have a complete overlay of its existing analog service until the end of 2004.

South Canaan reached its decision to convert to a CDMA technology through a process of reasoned decision-making after thoroughly investigating the possibility of implementing a network-based solution on its current analog network.¹⁵ Having determined its course, the company has proceeded with all due speed to secure the necessary funding, select a vendor and issue purchase orders. As noted by one Tier II carrier that serves rural markets, the conversion to a CDMA technology “involves a complicated, multiple step process to clear sufficient spectrum

¹⁵ One Tier II carrier that was not fully aware of the difficulties in implementing a network-based solution in rural areas is now faced with the “daunting decision” as to whether to continue deploying the network-based solution or convert to another technology that supports a handset-based solution. See RCC Quarterly Report at 1.

in order to overlay a CDMA system” which takes a significant amount of time ¹⁶ Imposition of an artificial timetable would unnecessarily burden the limited staffing resources of the small carrier and jeopardize the provision of the new technology Accordingly, under these circumstances, the current schedule is overly burdensome and contrary to the underlying purpose of the rules

As demonstrated above, requiring South Canaan to sell the handsets and implement the network component on a schedule would be contrary to the public interest Because the CDMA technology is not compatible with the current analog network, customers who purchase the CDMA phones from South Canaan prior to full deployment would have only intermittent digital service Even after the new technology has been implemented in all cell sites, the necessity of testing the system may require down time in which CDMA subscribers’ digital service would be interrupted Accordingly, requiring sales of CDMA handsets before full system testing and deployment would result in customer dissatisfaction, as well as confusion as to when and where digital service is available ¹⁷

Further, requiring South Canaan to sell the handsets and implement the network component on a schedule which ignores its technology implementation timetable and delays its expansion to offer service to presently unserved areas would be contrary to the public interest. South Canaan’s strategic plan has been to extend mobile telephone service to subscribers in rural

¹⁶ United States Cellular Corporation Quarterly E911 Implementation Report, CC Docket No. 94-102, filed May 1, 2003 at 5. The Tier II carrier estimates that it will take up to four years to convert all of its markets to CDMA. *Id*

¹⁷ Further, requiring South Canaan to implement the network component of the hybrid solution prior to the sale of ALI-capable handsets would be unnecessary and burdensome since no information would be available to send to the PSAPs.

areas not presently served. This expansion plan resulted in delayed transition to CDMA, leaving the company at a disadvantage when required to support E911 Phase II according to the prescribed deployment schedule.

B. Grant of This Waiver Would Serve the Public Interest

To implement a hybrid network/handset-based solution in the most efficient and expeditious manner, South Canaan poses the following revised implementation schedule:

- (i) January 1, 2005 - begin selling and activating ALI-capable CDMA handsets and begin delivering the Phase II service to the PSAP,¹⁸
- (ii) March 31, 2005 - ensure that at least 25% of all new CDMA handsets activated are ALI-capable,
- (iii) September 30, 2005 - ensure that at least 50% of all new CDMA handsets are ALI-capable,
- (iv) March 31, 2006 - ensure that 100% of all new CDMA handsets activated are ALI-capable.
- (v) By December 31, 2007 – ensure that 95% of CDMA subscribers have ALI-capable handsets.

This proposed deployment is consistent with the Commission's reasoning when it adopted the phased-in deployment approach for carriers choosing a handset-based solution. The Commission's current benchmarks allow fifteen months to reach 100 percent activation level for

¹⁸ Prior to the January 1, 2005 benchmark, South Canaan will have installed the necessary hardware and software in its CDMA network to provide Phase II service from its handset-based solution.

new ALI-capable handsets.¹⁹ As the Commission has previously found, a transition period of less than four years and three months for carriers to reach full penetration of their customer base with ALI-capable phones is “overly ambitious, in view of consumers that may wish to continue to use their non-ALI capable handsets, even if newer handsets provide location as well as other advanced features.”²⁰ Accordingly, South Canaan’s revised deployment schedule proposes to transition at least 95 percent of its CDMA customers to ALI-capable phones within three years from the date it begins to sell the phones and anticipates that within this period of time, many of its analog customers will have transitioned to the CDMA ALI-capable handsets.²¹ During the temporary extension period, South Canaan would submit quarterly progress reports to keep the Commission apprised of progress towards compliance

¹⁹ See Stay Order at para. 33, *In the Matter of Revision of the Commission’s Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, CC Docket No. 94-102 at para. 34 (rel. Sept. 8, 2000) (“Fourth MO&O”) (determining that a fifteen month interval between the benchmark to begin selling the ALI-capable handsets and complying with the 100 percent activation level for new ALI-capable handsets allows carriers to comply “without resulting in unreasonable or unnecessary delay”)

²⁰ See *id.* at para. 36

²¹ South Canaan anticipates that many of its analog customers will have migrated to CDMA technology by that date since roaming for analog subscribers will likely be significantly curtailed due to the impending sunset of the requirement that cellular carriers provide analog service. Some of South Canaan’s analog customers, however, utilize three-watt phones, which undoubtedly will continue to provide better coverage in some rural areas than the lower watt CDMA digital phones. Accordingly, these customers may wish to continue to use their analog phones rather than transition to phones which are ALI-capable. To encourage the analog subscribers to transition, South Canaan will engage in an extensive effort to educate these customers regarding the public safety benefits that would be afforded to these customers were they to transition to CDMA ALI-capable phones. Moreover, this effort will include specific information regarding the deficiencies of analog service with respect to emergency services, *i.e.*, that location information will not be available to emergency service providers when consumers utilize analog phones. In this manner, consumers will be fully apprised of the effect of their choice to maintain analog phones, and will therefore be able to make an informed and educated choice regarding available services.


III. Conclusion

After thoroughly considering the implementation of a network-based solution, South Canaan has found that converting its system to a CDMA network, which supports a handset-based solution is the only viable option for compliance with Phase II requirements. To implement this conversion in the most efficient and expeditious manner, South Canaan proposes a revised schedule that accomplishes "important public safety needs as quickly as reasonably possible."²² Accordingly, to further the public interest, this instant Petition should be granted

Respectfully submitted,

**SOUTH CANAAN CELLULAR COMMUNICATIONS
COMPANY, L.P.**

By


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²² See Fourth MO&O at para 17

DECLARATION OF CAROLYN C. COPP

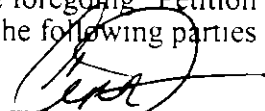
I, Carolyn C Copp, President of South Cansan Cellular Communications Company, L.P., do hereby declare under penalty of perjury that I have read the foregoing "Petition for Waiver" and that the facts stated therein are true and correct, to the best of my knowledge, information and belief.



Carolyn C. Copp

CERTIFICATE OF SERVICE

I, Terri Granison of Kraskin, Lesse & Cosson, LLC, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Petition for Waiver" was served on this 1st day of August 2003, via hand delivery to the following parties



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